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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,200	06/26/2001	Eugene S. Smotkin	491712000100	9382

25227 7590 08/10/2007

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 08/10/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

09/891,200

Applicant(s)

SMOTKIN, EUGENE S.

Examiner

Raymond Alejandro

Art Unit

1745

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 11 July 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

See Continuation Sheet.

  
RAYMOND ALEJANDRO  
PRIMARY EXAMINER

Raymond Alejandro  
Primary Examiner  
Art Unit: 1745

Continuation of 10. Other (including any explanation in support of the above items): See MPEP 1205.02. As applicant is well-aware, the summary of the claimed subject matter exceeds applicant's instant invention. For instance, applicant's Summary of Claimed Subject Matter discusses (on pages 3-6 of the Appeal Brief dated 07/11/07), inter-alia: fuel cells; catalyzed reactions; two-dimensional membranes; electrolytes per se; membrane electrode assembly; the conductance calculated as the area of the electrolyte perpendicular to the flow of protons divided by the area specific resistance; Nafion electrolyte; operate at low temperature; in the range of 200-500 °C; the area-specific resistance for protons will increase as the thickness of an electrolyte increases; a metal foil; metals or alloys serving as SEPARATORS of the fuel and oxygen that are reactants in fuel cells and they reversibly absorb hydrogen; becomes hydride; inorganic electrolytes (See pages 3-6 of the Appeal Brief dated 07/11/07). Since section V is strictly related to "SUMMARY of CLAIMED Subject Matter", applicant is kindly requested to show where the present claims or all independent claims do recite each and every limitation mentioned above. In other words, applicant's SUMMARY of CLAIMED Subject matter is not commensurate in scope with the present invention as instantly claimed. Applicant is kindly requested to carefully review MPEP 1205.02 to correct the above-indicated deficiencies so as to avoid further delays due to formal matters of an appeal brief.